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Serial Number 09/821,554

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REMARKS

Favorable reconsideration of this application in light of the above amendments and the following remarks is respectfully requested.

Claims 1-15 are pending within this application. No claims are canceled or amended herein. No claims have been allowed.

Claim Rejections - 35 U.S.C. § 102

The Examiner has rejected 1, 3-4, 7-8, 10-11 and 14-15 under 35 U.S.C. § 102(e) as being anticipated by Somekh (U.S. Patent No. 6,292,334).

In response in a first instance, applicant respectfully disagrees in part with the Examiner's reading of Somekh insofar as the Examiner asserts within: (1) the paragraph bridging pages 2-3; (2) page 6, fourth paragraph; (3) page 9, last clause; and (4) page 13, third paragraph, of the office action made FINAL that Somekh's low k etch stop layer 14 corresponds with applicant's patterned first dielectric layer within applicant's dual damascene structure. Rather, Somekh at col. 3, last full paragraph clearly designates Somekh's reference numeral 10 as Somekh's first dielectric layer within Somekh's dual damascene structure. Somekh's first dielectric layer is a blanket first dielectric layer within a damascene structure, rather than a patterned first dielectric layer within a damascene structure, as disclosed and claimed by applicant within claim 1, amended claim 4, claim 8 and amended claim 11 (clauses 2).

In addition, applicant notes that since Somekh's blanket first dielectric layer 10 and blanket second dielectric layer 18 are formed of a fluorosilicate glass (FSG) dielectric material (col. 4, lines 20-25 and 60-65) Somekh's blanket first dielectric layer 10 will inherently not provide an intrinsic etch stop with respect to Somekh's blanket second dielectric layer 18, as

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required within applicant's invention as disclosed and claimed within claim 1, amended claim 4, claim 8 and amended claim 11 (clauses 7).

Thus, since each and every limitation within applicant's invention as disclosed and claimed within claim 1, amended claim 4, claim 8 and amended claim 11 is not disclosed within Somekh, in particular with respect to a first dielectric layer within a dual damascene method being formed as a patterned first dielectric layer which provides an intrinsic etch stop when etching a blanket second dielectric layer formed thereupon, applicant asserts that claim 1, amended claim 4, claim 8 and amended claim 11 may not properly be rejected under 35 U.S.C. § 102(e) as being unpatentable over Somekh.

Since all remaining claims within the foregoing rejections are dependent upon claim 1 or claim 8 and carry all of the limitations of claim 1 or claim 8, applicant additionally asserts that those remaining claims may also not properly be rejected under 35 U.S.C. § 102(e) as being unpatentable over Somekh.

In response in a second instance, and in particular with respect to amended claim 4 and amended claim 11, applicant additionally asserts that those claims may also not properly be rejected under 35 U.S.C. § 102(e) as being unpatentable over Somekh insofar as those claims specifically require absence of a hard mask layer interposed between applicant's patterned first dielectric layer and applicant's blanket second dielectric layer (clauses 3). In comparison, Somekh (abstract and Figs. 4a to 4f) inapposite thereto discloses a dual damascene method specifically including a patterned hard mask layer interposed between a blanket first dielectric layer and a blanket second dielectric layer.

In light of the foregoing responses, applicant respectfully requests that the Examiner's rejections of claims 1, 3-4, 7-8, 10-11 and 14-15 under 35 U.S.C. § 102(e) as being unpatentable over Somekh be withdrawn.

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Claim Rejections -- 35 U.S.C. § 103

The Examiner has rejected claims 2, 5-6, 9 and 12-13 under 35 U.S.C. § 103(a) as being unpatentable over Somekh in view of Yu et al. (U.S. Patent No. 6,004,883; hereinafter "Yu").

In response, while not precluding the existence of independent patentable distinctions between: (1) Somekh in view of Yu; and (2) that which is claimed within claims 2, 5-6, 9 and 12-13, applicant predicates patentability of claims 2, 5-6, 9 and 12-13 upon their dependence upon claim 1 or claim 8.

In light of the foregoing response, applicant respectfully requests that the Examiner's rejections of claims 2, 5-6, 9 and 12-13 under 35 U.S.C. § 103(a) as being unpatentable over Somekh in view of Yu be withdrawn.

Other Considerations

The Examiner has newly cited no additional prior art of record not employed in rejecting applicant's claims to applicant's invention.

No fee is due as a result of this response.

SUMMARY

Applicant's invention as disclosed and claimed within claim 1, amended claim 4, claim 8 and amended claim 11 is directed towards a dual damascene method for forming: (1) an aperture through a dielectric layer; and (2) a patterned conductor layer within the aperture. The dual damascene method employs a patterned first dielectric layer having formed thereupon a blanket second dielectric layer, absent an extrinsic etch stop layer formed interposed between the

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patterned first dielectric layer and the blanket second dielectric layer. Absent from the prior art of record employed in rejecting applicant's claims to applicant's invention is a disclosure of each and every limitation within applicant's invention as disclosed and claimed within claim 1, amended claim 4, claim 8 and amended claim 11.

CONCLUSION

On the basis of the above amendments and remarks, reconsideration of this application, and its early allowance, are respectfully requested.

Any inquiries relating to this or earlier communications pertaining to this application may be directed to the undersigned attorney at 248-540-4040.

Respectfully submitted,


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